
(2013) 01 P&H CK 0092

In the Punjab And Haryana At Chandigarh

Case No : Letters Patent Appeal No. 186 of 2013 (O and M)

Harsh Arora

APPELLANT

Vs

Pt. B.D. Sharma University of Health Sciences and Others

RESPONDENT

Date of Decision : 30-01-2013

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (2013) 170 PLR 277

Hon'ble Judges : G.S. Sandhawalia, J;Ajay Kumar Mittal, J

Bench : Division Bench

Advocate : J.S. Bedi, for the Appellant;

Final Decision : Dismissed

Judgement

G.S. Sandhawalia, J.—The present letters patent appeal has been filed under Clause 10 of the Letters Patent for setting aside the order dated 22.11.2012 whereby the writ petition filed by the appellant had been dismissed wherein the benefit of weightage on the basis of sports certificate had been denied to him. The pleaded case of the appellant in the writ petition filed by him was that he was entitled for weightage to the sports persons under Chapter VI of the prospectus for admission in the M.B.B.S. course of various medical colleges in the State of Haryana held in pursuance of the Haryana PMT Entrance Examination, 2012 in the second counseling held on 12.09.2012. As per the gradation certificate, issued by the competent authority, in Grade "C" in Lawn Tennis, he was entitled for 2% weightage, being a sports person.

2. The defence of the respondents was that as per Clause 17 of Chapter X of the prospectus candidates were required to append the certificates on the basis of which reservation for admission to the course was being sought and that any claim made at a later stage was not to be entertained. It was further averred that as per column No. 10 of the application form, attached with the prospectus, a candidate had to specifically specify as to whether there was any claim for sports weightage and the certificate issued by the Director of the Sports of the

State concerned, stating the grade and period of participation, was to be submitted. The appellant had, while filling the application form, mentioned "No" against the said column and thus, had not claimed the said benefit. The result of the entrance examination was declared on 02.07.2012 and thus, as per Clause 9 of Chapter VI of the prospectus, a candidate who had applied either for reserved category or for both reserved and open categories, were to be considered first in the open category. Therefore, a combined merit list of the candidates was prepared for the purpose of counseling and the rank of the petitioner came to 353. In the first counseling, held on 07/08.08.2012, the candidates who had qualified the entrance examination and who had claimed for sports weightage in their application forms, were given sports weightage provisionally subject to the verification of the documents by the Counseling Board at the time of the counseling. Since the petitioner did not claim any sports weightage in his application, his name was not included in the list.

3. Subsequently, father of the petitioner submitted a representation dated 07.08.2012 before the Chairman, Counseling Board vide which he submitted a copy of sport certificate issued by Sports Department, Haryana for the grant of sports weightage to his son. Since the petitioner had not claimed for the said weightage in his application form, his name was not included in the list and no weightage was given to him since the claim was made at a later stage and was not to be entertained and the petitioner was intimated vide letter dated 07.09.2012. However, in view of the interim order dated 11.09.2012, passed by this Court in the writ petition, petitioner was allowed to participate in the second counseling held on 12.09.2012 and a provisional rank of 280-A in place of 353, was given by taking into account the weightage of sports person provisionally, subject to the final outcome of the writ petition. The petitioner fell within the merit by taking into account the weightage to sports person against one seat in MBBS course at Maharaja Agrasen Medical College Agroha. As per the decision of the Medical Council of India and in view of the judgment of the Hon''ble Apex Court, the admission was to be finalized by 30.09.2012, which was already over.

4. Keeping in view the issue in mind regarding strict adherence to the time schedule while granting admission to professional courses, the Learned Single Judge came to the conclusion that once the appellant himself had not sought the benefit of sports weightage while filling in the application form, the last date of which was 18.05.2012 and the result was declared on 12.07.2012 and since he had taken action to take his gradation certificate only later, i.e., on 06.08.2012, the denial by the respondents was just and reasonable. It was further held that since time schedule for admission to professional courses was sacrosanct in view of the judgment of the Hon''ble Apex Court, therefore the appellant could not be given the benefit of weightage. The prayer for admission in the next academic session was also declined while distinguishing the judgment of this Court rendered in LPA No. 764 of 2012 titled Panjab University Chandigarh and another v. Pallavi Mahajan and others, decided on 23.08.2012 and the Learned Single Judge came to the conclusion that strict adherence to time schedule for

admission had to be followed and therefore, the petitioner's claim for seeking admission could not be granted.

5. Counsel for the appellant submitted that the gradation certificate was issued on 06.08.2012 by the competent authority and therefore, he is entitled for the benefit. It was further submitted that since an interim order dated 11.09.2012 had been passed while entertaining the writ petition and the petitioner's case had been considered by the authorities for the said benefit, he should be given the admission.

6. The above-said submissions of the counsel for the petitioner do not deserve to be accepted. It is a matter of record that there was a cut-off date on which the application form was to be submitted along with requisite certificate issued by the competent authority, who was the Director of Sports in this case. The appellant never claimed the benefit of sports weightage and had rather stated in the negative. The certificate, thereafter, was issued on 06.08.2012, much later than the cut-off date of 18.05.2012. A Full Bench of this Court in *Rahul Prabhakar Vs. Punjab Technical University and Others*, held that the time and date for the receipt of the application fixed in the prospectus/information brochure has to be strictly adhered to. Relevant observation reads as under:

7. A Full Bench of this Court in *Amardeep Singh Sahota Vs. The State of Punjab etc.*, had to consider the scope and binding force of the provisions contained in the prospectus. The Bench took the view that the prospectus issued for admission to a course, has the force of law and it was not open to alteration. In *Raj Singh Vs. The Maharshi Dayanand University and Others*, another Full Bench of this Court took the view that a candidate will have to be taken to be bound by the information supplied in the admission form and cannot be allowed to take a stand that suits him at a given time. The Full Bench approved the view expressed in earlier Full Bench that eligibility for admission to a Course has to be seen according to the prospectus issued before the Entrance Examination and that the admission has to be made on the basis of instructions given in the prospectus, having the force of law. Again Full Bench of this Court in *Sachin Gaur Vs. Punjab University, Patiala and others*, took the view that there has to be a cut off date provided for admission and the same cannot be changed afterwards. These views expressed by earlier Full Benches have been followed in CWP No. 6756 of 1996 by the three of us constituting another Full Bench. Thus, it is settled law that the provisions contained in the information brochure for the Common Entrance Test 1997 have the force of law and have to be strictly complied with. No modification can be made by the Court in exercise of powers under Article 226 of the Constitution of India. Whenever a notification calling for applications, fixes date and time within which applications are to be received whether sent through post or by any other mode that time schedule has to be complied with in letter and spirit. If the application has not reached the Co-ordinator or the competent authority as the case may be the same cannot be considered as having been filed in terms of the provisions contained in the prospectus or Information Brochure.

Applications filed in violation of the terms of the brochure have only to be rejected.

7. The appellant himself had not applied in the sports category in the said College, at the first instance; and therefore, cannot subsequently claim such benefit on a certificate which was produced later on. The claim for admission in the next academic year also cannot be accepted in view of the recent judgment of the Hon''ble Apex Court in Faiza Choudhary Vs. State of Jammu and Kashmir and Another, Wherein it has been held that seats cannot be carried forward to the next year and there is no such procedure of carry forward. Relevant paragraph of the judgment reads thus:

14. A medical seat has life only in the year it falls that too only till the cut-off date fixed by this Court i.e. 30th September in the respective year. Carry forward principle is unknown to the professional courses like medical, engineering, dental etc. No rule or regulation has been brought to our knowledge conferring power on the Board to carry forward a vacant seat to a succeeding year. If the Board or the Court indulges in such an exercise, in the absence of any rule or regulation, that will be at the expense of other meritorious candidates waiting for admission in the succeeding years.

8. The interim order passed by this Court, while directing the petitioner's case for consideration, was very specific to the extent that it was subject to the final outcome of the writ petition and would not change the equity in favour of the petitioner. With the dismissal of the writ petition, the interim order would also amalgamate in the final order and can no longer be read and therefore, the appellant cannot claim any benefit on the basis of the said interim order. The judgment rendered in Panjab University Chandigarh (supra) does not lay down any specific principle of law as cited by the counsel for the petitioner. In the said case, the University was in appeal against the judgment of the Learned Single Judge in which an additional second written test as prescribed, which had been quashed and in the appeal of the University, observations had been made that it would examine the case of the students as to whether they were entitled to be granted admission in the present year or the next academic session keeping in view the fact that they were not at fault, in any manner. In the present case, the fault, if any, lay apparently with the appellant himself as he had filled the form incorrectly and cannot claim any such benefit at a later stage and thus, no relief can be granted to him. No perversity or illegality could be pointed out in the judgment of the Learned Single Judge. Accordingly, finding no merit in the pleas of the appellant, the present letters patent appeal is dismissed in limine.